



CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

March 11, 2004

H.R. 3872 **Consumer Access to Information Act of 2004**

*As ordered reported by the House Committee on Energy and Commerce
on March 3, 2004*

H.R. 3872 would deem the misuse of another person's database an unfair method of competition and an unfair or deceptive act or practice in commerce. Under current law, the Federal Trade Commission (FTC) has the authority to monitor and take enforcement actions against such violations. Based on information provided by the FTC, CBO estimates that implementing H.R. 3872 would have no significant effect on spending subject to appropriation and would not affect direct spending. Because the FTC would have the authority to assess monetary penalties to enforce the bill, CBO estimates that enacting H.R. 3872 would increase revenues, but we expect that any additional revenues from penalties would be insignificant.

H.R. 3872 contains no intergovernmental mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

By prohibiting any person from misappropriating a database, H.R. 3872 would create a new private-sector mandate as defined in UMRA. Under the bill, the term "misappropriation of a database" generally means a person's use of information from a database generated by another person without proper authorization when: (1) the database was generated at some cost or expense; (2) the value of the information on the database is highly time-sensitive; (3) the use constitutes "free-riding" on the originator's costly efforts to generate or collect the data; (4) the use is in direct competition with a product or service offered by the originator; and (5) such use might eliminate the incentive to produce the product or service. Currently, database owners may seek relief for the misuse of a database under state misappropriation, contract, or unfair competition laws and, in some circumstances, under federal copyright laws.

The cost of complying with the mandate would be either the cost of obtaining permission for using the data through a contract or license or the revenue forgone by not being able to use the data. CBO cannot estimate the cost of the mandate because we do not have enough

information to determine the scope and incremental impact of this additional prohibition on misuse of a database.

On February 10, 2004, CBO transmitted a cost estimate for H.R. 3261, the Database and Collections of Information Misappropriation Act, as ordered reported by the House Committee on the Judiciary on January 21, 2004. On March 8, 2004, CBO transmitted a cost estimate for H.R. 3261, as ordered reported by the House Committee on Energy and Commerce on March 3, 2004. The two versions of H.R. 3261 are identical. H.R. 3261 would allow parties who create or maintain databases to file civil suits against persons who misuse those databases. H.R. 3872 would create a new federal law prohibiting misappropriation of a database, which would be enforced by the FTC. What constitutes a misappropriation of a database is slightly different in the two bills. In both cases, CBO has no basis for estimating the costs of the mandate. CBO estimates that the federal cost of implementing either of the two bills would be insignificant.

The CBO staff contacts for this estimate are Melissa E. Zimmerman (for federal costs), Sarah Puro (for the state and local impact), and Paige Piper/Bach (for the private-sector impact). The estimate was approved by Robert A. Sunshine, Assistant Director for Budget Analysis.